

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH W. FOLEY, :
Plaintiff, : 25-CV-1526 (VSB) (RWL)
- against - :
CAPITAL ONE, N.A., :
Defendant. :
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ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order resolves discovery issues that are the subject of Dkts. 84 and 85.

1. Capital One has shown cause as to why the Court should not deem admitted the requests for admission posed to it by Plaintiff based on the timing of Capital One's responses. As Plaintiff acknowledges, the requests for admission go to "core factual matters central to the claims and defenses in this case." (Dkt. 85 at 2.) Capital One served its responses only four days after the date set by the Court to do so, and two of those days were weekend days. That brief amount of time, even if not inadvertent, does not warrant deeming admitted key issues that go to the central merits of the case. Plaintiff will not be prejudiced by the timing of service of the responses given that they were served prior to Plaintiff's deposition of Capital One's 30(b)(6) witness. To be clear, Plaintiff still may challenge Capital One's responses for other reasons if warranted. The instant ruling concerns only the timing of the responses.

2. The Court has already ruled with respect to preclusion of documents and evidence not produced by Capital One by court-ordered deadlines. If Capital One attempts to offer documents or other evidence that violate those previous orders, Plaintiff may move to exclude at that time.

SO ORDERED,



ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: August 22, 2025
New York, New York

Copies transmitted this date to all parties.